

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
ORDER

APPLICATION 25888B

PERMIT 17878B

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT

WHEREAS:

1. On April 28, 1980, Permit 17878B was issued to Marian Fitzgerald pursuant to Application 25888B. On April 12, 1996, the named owner of record was changed to Middleridge Vineyards.
2. On November 26, 1990, a petition for an extension of time within which to develop the project and make full beneficial use of water was filed with the State Water Resources Control Board.
3. On December 12, 1990, the petition was noticed in compliance with Section 843, Title 23 of the California Code of Regulation. No protests were submitted against the petition.
4. On January 1, 1995, the State Water Resources Control Board issued a Notice of Exemption in accordance with section 15062 of the California Environmental Quality Act (CEQA) Guidelines.
5. Paragraph 12 of the permit pertaining to the continuing authority of the State Water Resources Control Board should be updated to conform with section 780(a), Title 23 of the California Code of Regulations.
6. The permittee has proceeded with diligence and good cause has been shown for the extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 9 of the permit is amended to read as follows:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 2004

(0000009)

2. Paragraph 12 of the permit is amended to read as follows:

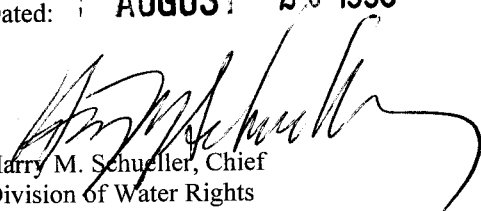
Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may

be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

Dated: **AUGUST 20 1998**


Harry M. Schueller, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 25888B

PERMIT 17878B

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
2. The permittee has proceeded with diligence and good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 8 of the permit is amended to read as follows:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 1, 1987

2. Paragraph 9 of the permit is amended to read as follows:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 1, 1990

3. Paragraph 12 of this permit is deleted. A new Paragraph 12 is added as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) to installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

Dated: APRIL 15 1985

Raymond Walsh

Raymond Walsh, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 25888-B

PERMIT 17878-B

LICENSE _____

ORDER APPROVING A CHANGE IN POINTS OF DIVERSION

WHEREAS:

1. A petition to change the points of diversion on unnamed stream tributary to McDowell Creek has been filed with the State Water Resources Control Board.
2. The Board has determined that the petitioned changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

Paragraph 2 of this permit regarding points of diversion is amended to read as follows:


DIRECT DIVERSION

South 400 feet and East 450 feet from NW corner of Section 35, T13N, R11W, MDB&M, being within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 35.

POINTS OF REDIVERSION

- (A) South 1,000 feet and East 2,450 feet from NW corner of Section 27, T13N, R11W, MDB&M, being within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 27.
- (B) North 700 feet and West 500 feet from SE corner of Section 22, T13N, R11W, MDB&M, being within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 22.
- (C) North 100 feet and West 1,320 feet from SE corner of Section 22, T13N, R11W, MDB&M, being within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 22.
- (D) North 700 feet and East 1,550 feet from SW corner of Section 22, T13N, R11W, MDB&M, being within the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section 22.

Dated: MARCH 29 1983


Raymond Walsh, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 17878B

Application 25888B of Marian Fitzgerald
P.O. Box 398, Hopland, California 95449

filed on December 19, 1978, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Coleman Creek	Pieta Creek thence
	Russian River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
(SEE ADDENDUM)					

County of Mendocino

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Frost Protection	S $\frac{1}{2}$	22	13N	11W	MD	80.0
	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	27	13N	11W	MD	2.8
	E $\frac{1}{2}$	27	13N	11W	MD	118.7
	W $\frac{1}{2}$	26	13N	11W	MD	6.1
					Total	207.6

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 3.0 cubic feet per second to be diverted from March 1 to May 15 of each year. The maximum amount diverted under this permit shall not exceed 208 acre-feet per year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Actual construction work shall begin on or before two years from date of permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Said construction work shall be completed on or before December 1, 1983. (0000008)

9. Complete application of the water to the proposed use shall be made on or before December 1, 1990. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

ADDENDUM

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
<u>Direct Diversion</u> S400 ft. and E450 ft. from NW corner of Section 35	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	35	13N	11W	MD
(A) <u>Rediversion</u> S1000 ft. and E2450 ft. from NW corner of Section 27	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	27	13N	11W	MD
(B) <u>Rediversion</u> S600 ft. and E2400 ft. from NW corner of Section 27	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	27	13N	11W	MD
(C) <u>Rediversion</u> E2650 ft. from SW corner of Section 22	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	22	13N	11W	MD
(D) <u>Rediversion</u> N700 ft. and E1550 ft. from SW corner of Section 22	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	22	13N	11W	MD

17878 B

14. The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

(0000020)

15. For the protection of fish and wildlife in Coleman Creek, permittee shall:

- (a) During the period from March 1 through May 15 divert water from Coleman Creek only during such times and for so long as a visible surface flow of 3 cubic feet per second or greater is flowing past the point of diversion.
- (b) During the period from March 1 through May 15 and in the absence of a visible surface flow in Coleman Creek at the named point of diversion, divert water from the underflow of Coleman Creek during such times and for so long as the visible natural surface flow of Coleman Creek immediately upstream from its confluence with Vasser Creek in the NW 1/4 of the SW 1/4 of Section 35, T13N, R11W, is not less than 1.0 cubic feet per second.

(0140060)

16. No water shall be diverted under this permit until permittee has installed two devices (one near the diversion site and one immediately upstream of the confluence with Vasser Creek), satisfactory to the State Water Resources Control Board, which are capable of measuring the flow required by the conditions of this permit. Said measuring devices shall be properly maintained.

(0060062)

17. In accordance with Section 1603 and/or Section 6100 of the Fish and Game Code, no water shall be diverted under this permit until the Department of Fish and Game has determined that measures necessary to protect fishlife have been incorporated into the plans and construction of such diversion. The construction, operation, or maintenance costs of any facility required pursuant to this provision shall be borne by the permittee.

(0000063)

18. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, North Coast Region, or by the State Water Resources Control Board.

(0000100)

19. The total quantity of water diverted under this permit, together with that diverted under permits issued pursuant to Applications 25887A, 25887B and 25888A, shall not exceed 415 acre-feet per year.

(0000114)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: 1 APRIL 28 1980

STATE WATER RESOURCES CONTROL BOARD

L. C. Spencer, Jr.
Chief, Division of Water Rights